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**From:** [REDACTED]

**Sent:** Monday, May 20, 2013 1:31:20 PM

**To:** [REDACTED]

**Cc:**

**Bcc:**

**Subject:** RE: Revocable Trusts

Good morning. After our game of voice mail tag, I thought I'd just send you an email.

In your case, a taxpayer transferred property to a revocable trust. After that, the Service made an assessment against the taxpayer. You asked whether the FTL attaches to property held in the name of the trust. The best way to approach this to determine what interest the taxpayer has in the trust assets. As you know, under section 6321, the FTL attaches to all the taxpayer's property and rights to property. Therefore, if the trust assets are the taxpayer's property, the FTL will attach.

Where the settlor of a trust has or retains the right to revoke, the assets held in the trust are considered the settlor's property. Section 676 of the Code provides:

The grantor shall be treated as the owner of any portion of a trust, whether or not he is treated as such owner under any other provision of this part, where at any time the power to revest in the grantor title to such portion is exercisable by the grantor or a non-adverse party, or both.

Similarly, under principles of trust law, trust assets held in a revocable trust are treated as property of the settlor of the trust. See Restatement (Third) of Trusts § 25 (2003) and comments a (the property held in a revocable trust is ordinarily to be treated as if it were property of the settlor and not of the beneficiaries) and comment e (property held in the trust is subject to the claims of creditors of the settlor or of the deceased settlor's estate if the same property belonging to the settlor or the estate would be subject to the claims of the creditors, taking account of homestead rights and other exemptions.)

In sum, the trust property is the taxpayer's property for lien attachment under section 6321. [REDACTED]

If would like to discuss this, please feel free to contact me.